

## 5119.1002

(the Dredging Program). The Program will be conducted through 30 September 1992.

### 5119.1002 Definitions.

(S-90) "Emerging Small Business Reserve Amount" (ESBRA) means the dollar threshold for contracting opportunities in dredging, below which competition shall be conducted exclusively among emerging small business concerns. This amount is set forth in 5119.1070-2(a)(S-90).

### 5119.1003 Purpose.

(c)(S-90) The purpose of the Dredging Program is to—

(i) Expand small business and emerging small businesses (ESB) participation in contracting opportunities for dredging through restricted competition.

(ii) Demonstrate the existence of a sufficient number of small businesses and ESBs which meet the current size standard for Standard Industrial Code (SIC) Code 1629 (Dredging and Surface Cleanup Activities) as an indicator of the adequacy of the current size standard.

### 5119.1004 Participating agencies.

Participation in this Dredging Program is limited to the Department of the Army, Corps of Engineers.

### 5119.1005 Applicability.

(S-90) The program shall apply to solicitations issued by the Department of the Army Corps of Engineers buying activities for the procurement of dredging under SIC 1629 (Dredging and Surface Cleanup Activities), limited to Federal Procurement Data Systems (FPDS) codes Y216 and Z216. This includes both maintenance dredging and new start (new work) construction dredging. Dredging to be performed by Government forces utilizing the Federally owned fleet pursuant to 33 U.S.C. 622 is not subject to the program.

### 5119.1070 Procedures.

#### 5119.1070-2 Emerging small business set-aside.

(a)(S-90) Solicitations for dredging shall be set-aside for exclusive competition among ESBs when the esti-

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mated award value is equal to or less than the emerging small business reserve amount (ESBRA) of \$600,000. (Except that dredging acquisitions shall continue to be considered for placement under the 8(a) program (see FAR subpart 19.8) and for small disadvantaged business set-asides (see DFARS 219.502-72)). The ESBRA applies only to new awards. Modifications or follow-on awards to contracts having an initial award value in excess of the ESBRA are not subject to this requirement. The set-aside requirements in DFARS 219.1070-2 (a) and (b) for designated industry groups acquisitions valued at \$25,000 or less shall be complied with for all dredging program set-asides.

(S-90) The contracting office shall include the applicable SIC Code and dollar size standard in the synopsis of proposed procurement as published in the Commerce Business Daily (CBD), in the presolicitation notice (construction contract) SF 1417 when issued, and in the solicitation documents.

(S-91) The contracting officer shall consider use of the following initiatives to increase participation by small businesses and emerging small businesses:

(1) Specifying of contract requirements and contractual terms and conditions which are conducive to competition among small business and emerging small business concerns, consistent with the mission or program requirements of the Department of the Army, Corp of Engineers.

(2) Encouraging joint ventures, teaming agreements, and similar arrangements consistent with the Small Business Act (15 U.S.C. 637(d)) for the purpose of including small business concerns in contracting opportunities. However, no such joint venture shall exceed the applicable size standard.

(3) Making maximum use of subcontracting through plans negotiated and enforced pursuant to section 8(d) of the Small Business Act. Goals may be specified in solicitations stating minimum percentages of subcontracting.

#### 5119.1070-3 Identification and reporting.

(b) Reporting shall be done in accordance with DFARS 204.6 designated industry group requirements. Block

## Department of the Army

5125.74-9000

B12A, DD Form 350, shall contain either the FPDS Code Y216 or Z216, as applicable, per 5119.1005 (S-90).

### **5119.1071 Solicitation provisions and contract clauses.**

(a) DFARS provision 252.219-7012 shall be inserted in all solicitations issued under the Small Business Dredging Program (SIC 1629, limited to FPDS Service Codes Y216/Z216).

(b) DFARS clause 252.219-7013 shall be inserted in all solicitations and contracts set-aside for emerging small businesses in accordance with 5119.1070-2(a) (S-90).

## **PART 5125—FOREIGN ACQUISITION**

AUTHORITY: 5 U.S.C 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR 1.301 and DOD FAR Supplement 201.3.

### **5125.74-9000 Contractors Accompanying the Force—Deployment of Contractor Personnel in Support of Military Operations**

#### **SCOPE OF SUBPART**

(a) *General.* This subpart applies whenever contractors may be required to accompany the force in support of military operations, as defined in Joint Publication 1-02, "DOD Dictionary of Military and Associated Terms."

(b) *Coordination.* There are many operational details that will affect the scope of work in contracts requiring deployment of contractor personnel in support of military operations. The requirements activity, in conjunction with the contracting activity, must coordinate with the appropriate logistics organization to determine what level of support (*e.g.*, billeting, messing, clothing and equipment, access to medical facilities, pre-deployment processing) will be available to contractors.

(i) DFARS 225.802-70 (Contracts for performance outside the United States and Canada) prescribes special procedures applicable to contracts requiring the performance of work in a foreign country by U.S. personnel or a third country contractor, or that will require logistics support for contractor employees, and the contracting activity is not under the command jurisdic-

tion of a unified or specified command for the country involved. This provision generally requires the contracting activity to undertake certain coordination with the cognizant contract administration office for that country.

(ii) In situations where no contract administration office has been designated, the contracting officer shall ensure, prior to contract award, that the responsible combatant command concurs with any contract provision that promises logistical support to U.S. or foreign national contractor personnel. This requirement may be satisfied through a memorandum executed by the requiring activity that documents combatant command approval of any logistical support specified in the main body of the contract or its statement of work.

(c) *Legal status of contractor personnel.* The Status of Forces Agreements applicable to the Area of Operations (AO), as well as the Geneva Conventions and other international laws govern the legal status of contractor personnel. Contractor personnel's legal status will vary depending on the location and circumstances surrounding an incident.

(d) Requirements offices and contracting officers should use the Army Contractors Accompanying the Force Guidebook for more detailed guidance, including sample contract language, and a listing of Army and DoD regulations and other resources. Contracting Officers may tailor this language as appropriate, but using the Guidebook will both answer many common questions and foster uniform handling of common issues. The Guidebook may be found on the Deputy Assistant Secretary of the Army (Procurement & Production) Web site at <http://dasapp.saalt.army.mil/>.

(e) *Solicitation provision and contract clause.* The clause at §5125.225-74-9000 shall be inserted in all solicitations and contracts that may require deployment of contractor personnel in support of military operations. It may be tailored to fit the specific circumstances of the procurement.

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